



# Referendum Information Pamphlet

For the proposed Referendum of Apple Valley Land Use  
Ordinance O-2023-21

**TO BE CIRCULATED WITH REFERENDUM  
PETITION SIGNATURE SHEETS**

Compiled by  
Jenna Vizcardo, Apple Valley Town Recorder

**Town of Apple Valley**

1777 N Meadowlark Dr.  
Apple Valley, UT 84737  
435-877-1190

# APPLICATION FOR A REFERENDUM

To Repeal Ordinance O-2023-21

Filed 04/26/2023 With the Town of Apple Valley, Utah

Attachments Include:

- C. Signed and Notarized Referendum Applications
- D. Copy of Ordinance O-2023-21 as Published on the Town of Apple Valley Website.

Statements as Required by the Referendum Application form are as follows:

No Signature Gatherers Will be Paid for Their Services

Note: This Application pertains to a Local Referendum and is to be Initially Filed at the Local Town Office of the Town of Apple Valley, Utah.

RECEIVED APR 26 2023

gw (Jenna Vizcardo)  
Town Clerk

# Application for an Initiative or Referendum

Utah Code § 20A-7-202



**PLEASE NOTE:** A copy of the law must be attached to this application along with a statement indicating whether or not signature gatherers will be paid for their services.

Please type or print

Application must be completed by five sponsors

## Sponsor Statement

I, WALTER EARL JOSEY affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.

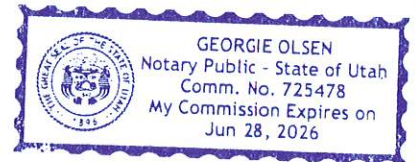
1224 N. Rome Way Residence Address Walter Josey Sponsor's Signature

Apple Valley, UT 84737 City, State, Zip 435-817-1599 Phone Number Notary Seal

JOSEY WALTER@hotmail.com Email

Subscribed and affirmed before me this 24th day of 24 April 2023.

by Georgie Olsen Notary Public



## Sponsor Statement

I, Russell Tomky affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.

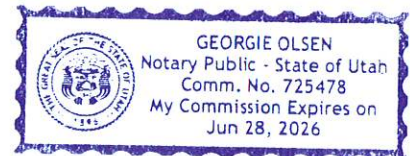
1504 N Rome Way Residence Address Russell Tomky Sponsor's Signature

Apple Valley, UT 84737 City, State, Zip 719.660.0641 Phone Number Notary Seal

rjtomky@hotmail.com Email

Subscribed and affirmed before me this 24th day of April 2023.

by Georgie Olsen Notary Public



### To File This Form

Mail or deliver to:  
Lieutenant Governor's Office  
Utah State Capitol  
Suite 220  
Salt Lake City, UT 84114-2325  
Fax (801) 538-1133

### For More Information Call or Visit:

(801) 538-1041  
1-800-995-VOTE (8683)  
elections.utah.gov

# Application for an Initiative or Referendum

Utah Code § 20A-7-202

Name of Organization

## Sponsor Statement

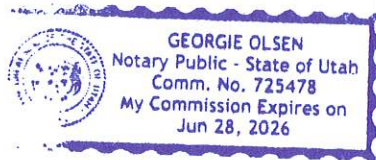
I, Richard Ososki affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.  
Name of Sponsor (please type or print)

1024 W. Little Pinion Way Richard Ososki  
Residence Address Sponsor's Signature

Apple Valley UT, 84237 (702)-292-4440 Notary Seal  
City, State, Zip Phone Number

free00357@gmail.com  
Email

Subscribed and affirmed before me this 24 day of April 2023



by [Signature]  
Notary Public

## Sponsor Statement

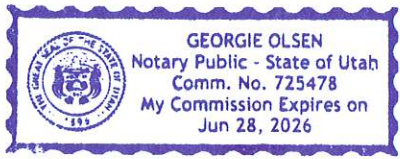
I, MARGARET OSOSKI affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.  
Name of Sponsor (please type or print)

1024 W. LITTLE PINION WAY Margaret Ososki  
Residence Address Sponsor's Signature

APPLE VALLEY UT 84737 702-256-6060 Notary Seal  
City, State, Zip Phone Number

R44NM53@GMAIL.COM  
Email

Subscribed and affirmed before me this 24th day of April 2023



by [Signature]  
Notary Public

# Application for an Initiative or Referendum

Utah Code § 20A-7-202

Name of Organization

## Sponsor Statement

I, KATHY STOKER affirm that I am a resident of Utah and I have voted in a regular  
Name of Sponsor (please type or print) general election in Utah within the last three years.

1536 N. MOUNT ZION DR  
Residence Address

Kathy Stoker  
Sponsor's Signature

APPLE VALLEY, UTAH 84737  
City, State, Zip

801-589-4626  
Phone Number

Notary Seal

kstoker52@gmail.com  
Email

Subscribed and affirmed before me this 20th day of April 2023.

by [Signature]  
Notary Public



# Application for an Initiative or Referendum

Utah Code § 20A-7-202

Name of Organization

## Sponsor Statement

I, Joan F. Moses affirm that I am a resident of Utah and I have voted in a regular  
Name of Sponsor (please type or print) general election in Utah within the last three years.

2888 N. Foothill Dr.  
Residence Address

Joan F. Moses  
Sponsor's Signature

Apple Valley, UT 84737 801-615-1584  
City, State, Zip Phone Number

Notary Seal

joaniemoses@gmail.com  
Email

Subscribed and affirmed before me this 24th day of April 2023.

by

[Signature]  
Notary Public



# Application for an Initiative or Referendum

Utah Code § 20A-7-202

Name of Organization

## Sponsor Statement

I, Tim Fass affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.  
Name of Sponsor (please type or print)

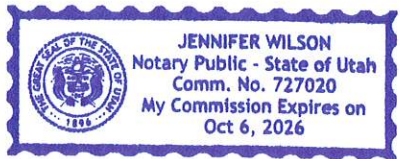
981 W. Smithsonian Way \_\_\_\_\_  
Residence Address Sponsor's Signature

Apple Valley, UT 84737 435-619-4257 Notary Seal  
City, State, Zip Phone Number

dustyhills@hotmail.com  
Email

Subscribed and affirmed before me this 25<sup>th</sup> day of April 2023

by \_\_\_\_\_  
Notary Public



# Application for an Initiative or Referendum

Utah Code § 20A-7-202

Name of Organization

## Sponsor Statement

I, Sid Johansen affirm that I am a resident of Utah and I have voted in a regular general election in Utah within the last three years.  
Name of Sponsor (please type or print)

2848 N. Foothill DR Sid Johansen  
Residence Address Sponsor's Signature

Apple Valley UT 84737 435-467-4605 Notary Seal  
City, State, Zip Phone Number

johansenhvaco@yahoo.com  
Email

Subscribed and affirmed before me this 25<sup>th</sup> day of April 2023.

by [Signature]  
Notary Public



**APPLE VALLEY  
ORDINANCE O-2023-21**

**NOW THEREFORE**, be it ordained by the Council of the Apple Valley, in the State of Utah, as follows:

**SECTION 1:**        **AMENDMENT** “10.28.230 Accessory Buildings And Accessory Uses General Requirements” of the Apple Valley Land Use is hereby *amended* as follows:

AMENDMENT

10.28.230 Accessory Buildings And Accessory Uses General Requirements

- A. Accessory buildings and accessory uses may be authorized in association with a primary building or primary use.
- B. Accessory buildings and accessory uses shall only be authorized concurrently with, or following, the establishment of the primary building or primary use, unless a conditional use permit is obtained.
- C. An accessory garage may be attached to, or detached from, the primary building.
  - 1. An accessory garage that is attached to a primary building shall meet all requirements for the location of the primary building.
    - a. All garages and other accessory buildings located within ten feet (10') of the primary building shall be considered attached and part of the primary building and the setback requirements applicable to the primary building shall apply
    - b. See also AVLU 10.28.240.
- D. An accessory garage that is detached from a primary building shall meet all requirements for the location of a detached accessory building, as provided herein.
  - 1. All garages and other accessory buildings located ten feet (10') or more away from the primary building may be located no less than three feet (3') from the side or rear property line, and no portion of any garage or accessory building, including any roof overhangs, shall be allowed within one foot (1') of any property line.
  - 2. No storm water runoff from any accessory building shall be allowed to run onto adjacent property.
  - 3. See also AVLU 10.28.240.
- E. Accessory buildings, located on corner lots, shall meet the required corner side yard setback, applicable in the zoning district in which the accessory building is located.
- F. Accessory buildings, except for agricultural use accessory buildings, shall blend with the primary residence and be of similar or contrasting color. ~~be constructed of similar materials and colors and be an architectural style designed to blend with the primary building.~~
- G. Agricultural use accessory buildings, including barns and stables, shall be constructed

of serviceable building materials and be of similar or contrasting color.

H. Accessory buildings and shipping containers shall comply with the requirements of the adopted building code, as applicable.

I. No mobile home, travel trailer, boat or similar recreational vehicle shall be used as an accessory building.

J. No shipping container, cargo container, shipping crate, box, trailer or similar piece of equipment or object shall be used as an accessory building, unless said container meets the requirements of this section.

~~Containers may be used as accessory buildings to a primary residential structure subject to the following requirements;~~

- ~~1. Shipping Container is defined as an enclosed steel box container with strength suitable to withstand shipment, storage and handling. Containers are 20'x8'x8'6"-9'6" or 40'x8'x8'6"-9'6" (LxWxH). Also commonly referred to as Intermodal Freight Containers, Conex Boxes, ISO Container or Sea Cans.~~
- ~~2. Shipping Containers may be used as accessory buildings to a primary residential structure subject to the following acreage limitations;~~
  - ~~a. Lots under two acres are allowed one shipping container not to exceed twenty feet (20') in length.~~
  - ~~b. Lots two or more acres and less than five acres are allowed either one (1) forty foot (40') container or two (2) twenty-foot (20') containers.~~
  - ~~c. Lots over five acres but less than twenty acres are allowed sixty feet (60') in total linear length of shipping containers.~~
  - ~~d. Lots twenty acres and larger are allowed one hundred sixty feet (160') in total linear length of shipping containers.~~
- ~~3. Shipping containers shall be located in side or rear yard, are subject to all property setbacks and shall not be located within ten feet (10') of any primary structure or other accessory building or shipping container.~~
- ~~4. Within one (1) month of delivery, all shipping containers must be painted to either match the primary residential structure or one of the following earth tones; hunter green, brown, beige, tan, gray, copper, earth red or white. Container lettering, names and numbering, must not be visible on the exterior of the structure.~~
- ~~5. All Shipping Containers must be permitted prior to delivery.~~
  - ~~a. Container installed without utilities require submission of a site plan to include the location of the container, the setbacks to other buildings and property lines, and the color plan.~~
  - ~~b. If utilities will be connected, the standard building permit process must be followed and building permit fees paid. The container will be subject to inspections prior to completion.~~
- ~~6. No more than two (2) shipping containers may be used for storage of construction materials for the duration of a building permit for a residential structure. Said container(s) shall be removed prior to issuance of the Certificate of Occupancy.~~

K. No utility connections or meters, separate from the primary building, shall be allowed for accessory buildings. Unless required by code.

L. No accessory buildings shall be rented, leased or sold separately from the rental, lease

or sale of the primary building.

- M. No accessory building shall be used as a permanent dwelling unit, unless a permit is obtained as outlined in Title 10.28.270.
- N. No accessory building shall be located closer than three feet (3') to any side or rear property line, and no portion of any garage or accessory building, including any roof overhangs, shall be allowed within one foot (1') of any property line.
- O. No storm water runoff from any accessory building shall be allowed to run onto adjacent property.
- P. Accessory buildings used for the housing of domestic livestock or fowl shall comply with the requirements of AVLU 10.10.050 B.

**SECTION 2:**        **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

**SECTION 3:**        **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

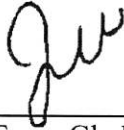
**SECTION 4:**        **EFFECTIVE DATE** This Ordinance shall be in full force and effect from April 19, 2023.

PASSED AND ADOPTED BY THE APPLE VALLEY COUNCIL APRIL 19, 2023.

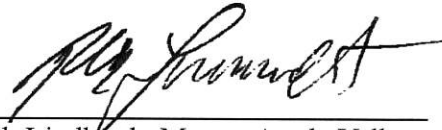
	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Mayor   Frank Lindhardt	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Council Member   Andy McGinnis	<u>      </u>	<u>      </u>	<u>  X  </u>	<u>      </u>
Council Member   Barratt Nielson	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Council Member   Kevin Sair	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Council Member   Robin Whitmore	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

Attest

Presiding Officer



\_\_\_\_\_  
Jenna Vizcardo, Town Clerk, Apple Valley



\_\_\_\_\_  
Frank Lindhardt, Mayor, Apple Valley



## Argument for the Referendum to Repeal Ordinance O-2023-21

JW  
Jenna  
Vizzardo  
Town  
Clerk

Ordinance O-2023-21 removes the code restriction that prevents accessory buildings being constructed prior to establishing a primary building or use if a conditional use permit is obtained.

Ordinance O-2023-21 removes the code restriction on accessory buildings that prevent the use of any material that is not similar to the primary home, and therefore can now be dissimilar materials such as metal, etc.

Ordinance O-2023-21 provides a path to convert and use an accessory building or part of, as a permanent dwelling.

Ordinance O-2023-21 should be repealed because the potential can exist to build a Commercial/Industrial size accessory building or multiple large buildings without the requirement of building a primary home first. There are no restrictions on how long it will take to build the primary home, and therefore the conditions could result in an accessory building existing on a lot for years with no primary home. Within the 1/2 acre and 1 acre Rural Estates and Single Family Residential zoning, this would be detrimental to real estate property values.

Ordinance O-2023-21 should be repealed because the potential can exist to build a Commercial/Industrial size accessory building or multiple large buildings that can be of any material if designated for agricultural use. This would have a negative visual effect on the feel and character of existing Apple Valley neighborhoods which would negatively impact real estate property values.

Ordinance O-2023-21 should be repealed because the potential can exist to convert a Commercial/Industrial size accessory building, or one of multiple buildings into a permanent dwelling which violates Rural Estates and Single Family Residential zoning concepts.

Ordinance O-2023-21 should be repealed because shipping containers may now be considered accessory buildings and the number of them are only limited to equal 50% of the lot size minus primary home. Shipping containers could possibly be stacked and placed on a lot without the requirement of a building permit for a

primary home and could exist for years by themselves. This would reduce real estate property values for 1/2 acre and 1 acre Rural Estates and Single Family Residential zoning.

Example 1:

- 1/2 acre lots.
- Up to Twenty Seven 40 ft shipping containers, Or
- Up to Fifty Four 20 ft shipping containers.
- 50% of 1/2 acre lot is 10,890 sq-ft

Example 2:

- 1 acre lots.
- Up to Sixty one 40 ft shipping containers which can be stacked, Or
- Up to One Hundred Twenty Two 20 ft shipping containers.
- 50% of 1 acre lot is 21,708 sq-ft



## **Argument Against Repeal of Ordinances O-2023-15, O-2023-19, O-2023-20, and O-2023-21**

Ordinances O-2023-15, O-2023-19, O-2023-20, and O-2023-21 allow property owners to obtain conditional use permits to build accessory buildings, own animals, raise crops, and perform other conditional uses prior to obtaining a building permit. They also simplify restrictions on the number of buildings permitted on each lot, reduce restrictions on the materials used to build and the architectural styles required for accessory buildings, and allow property owners to apply for conditional use permits to increase building heights above what zoning allows. Along with other minor changes, the amendments also clean up the language of existing land use ordinances and correct typos.

These ordinances seek to balance the need for regulation with the rights of property owners and allow property owners more freedom to use their property as they see fit, without government micromanagement. This goal lends itself well to the overall well being of the Apple Valley community. The repeal of these ordinances would leave property owners without remedy when applying for a permit for a reasonable project that may violate zoning on a technicality. The ordinances seek to allow the Town the most possible flexibility when determining how property owners can use their property. The repeal of these ordinances would not change the homes, accessory units, and other buildings already present in the community. Instead, they could restrict citizens from enjoying the future right to use their property for reasonable causes as they see fit.

Economically, repealing the ordinances could stifle progress and create uncertainty for current and prospective property owners, thus stunting economic growth. If developers desire a particular scheme in a particular area, they may enforce restrictions and limit property rights through private protective covenants (CC&Rs). But the desire to conform to a particular scheme in one area should not dictate development in the rest of the community.

One additional benefit of the ordinances as written is that they clean up typos in previous versions of the ordinances and simplify regulations. Although typos are a minor thing, more clarity is always better for zoning ordinances. Additionally, the simplifications make the law easier to understand and implement.

Residents should vote “No” on this Referendum to protect the rights of property owners.



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**RE: Fiscal and Legal Impacts of Referendum Petitions to Repeal Ordinances O-2023-15, O-2023-19, O-2023-20, and O-2023-21**

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Under Utah Code § 20A-7-602.5, the Town’s “budget officer, together with legal counsel, shall prepare an unbiased, good faith estimate of the fiscal and legal impact of repealing the law” that the referendum proposes to repeal. Utah Code § 20A-7-602.5.

**Explanation of Proposed Impacts**

Section 20A-7-602.5(2)(a)(vii) requires 100-word or less explanation of the estimated fiscal and legal impact of repeal. That explanation is as follows:

- There is no fiscal impact to the proposed repeal of these ordinances. The repeal may adversely impact the property rights property owners who may have acted in reliance on these amendments. But such impact would require these persons to have obtained permits or otherwise expended sums in reliance on these amendments.

**Fiscal Impact Analysis**

Repealing Ordinances O-2023-15, O-2023-19, O-2023-20, and O-2023-21 will not:

- materially increase or decrease taxes; or
- result in the issuance of, or a change in the status of, bonds, notes, or other debt instruments.

**Legal Impact Analysis**

Under Utah Code § 20A-7-602.5(2)(a)(vi), when a referendum is submitted to the Town, the Town’s legal counsel must prepare an unbiased, good faith estimate of the legal impact of repealing the laws the referendum proposes to repeal. The law requires the legal opinion to address the following:

- any significant effects on a person's vested property rights;
- any significant effects on other laws or ordinances;
- any significant legal liability the Town may incur; and
- any other significant legal impact as determined by the budget officer and the legal counsel.

The following is a summary of each.

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**Effect on vested property rights**

Property owners generally hold their property subject to applicable zoning ordinances and have no vested right in existing or anticipated zoning. Repealing Ordinance Nos. O-2023-15, O-2023-19, O-2023-20, and O-2023-21 may, however, adversely impact the property rights of any person who has taken action, such as obtaining a building or other use permits and expended sums in reliance on these amendments.

**Effects on other laws and ordinances**

We are unaware of other laws and ordinances that would be effected by the repeal of one or more of the ordinances at issue.

**Legal liability that Town may incur**

Liability, if any, must be evaluated under the specific facts and circumstances of each situation. But generally, if the amended ordinances are repealed, the Town may be limited in taking adverse actions against persons who have obtained building or other permits and otherwise expended sums in reliance on these amendments.

**Other significant legal impacts.**

We are unaware of any other significant legal impacts related to the repeal of these ordinances.

